

## **REMARKS**

In the Office Action mailed January 11, 2006, the Examiner rejected claims 1, 3-5, 7-9, 11, 12, 14-22 and 24-25. By way of the foregoing amendments and the markings to show changes, Applicants have amended claims 1, 3, 5, 6, 12, 14, canceled claim 24, and added new claim 29. The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled in view of the prior art.

### **Claim Objections**

The Examiner objected to claim 14 as depending from a cancelled claim. Applicants have amended claim 14 to depend on independent claim 12 to overcome the objection.

### **Claim Rejections 35 USC 102**

Claims 1, 5, 9, 11 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Lohmeyer (4,856,846). Applicants traverse the rejection of these claims.

In the interest of expediting prosecution and without acquiescing in the Examiner's rejection, Applicants have amended independent claim 1 and believe claim 1 is patentable over the cited art, along with the claims that depend therefrom.

#### **Claim 1 and 12**

The Office Action suggests at page 2 that tubular structures (23) in the Lohmeyer reference are channel forming ribs. Applicants contend that the tubular structures (23) in the Lohmeyer reference are for bending under slight loads and do not provide vertical and torsional stiffness to the main wall as recited now in claims 1 and 12. The chair in Lohmeyer is designed to withstand only relatively slight bending and mechanical stresses (col. 1, lines 63 to col. 2, line 1). The tubular structures (23) allow the backrest of the chair to withstand these stresses by bending. Specifically, the tubular structures (23) each form hinge (24) and spring elements (25) that allow for such bending to occur when the backrest is loaded. (col. 4, lines 33-48). The tubular structures (23) in the Lohmeyer reference do not provide vertical and torsional stiffness to the backrest. The configuration in the present application where one or more channel forming ribs

extend horizontally substantially entirely from a first to a second side of the first panel, the first side being opposite the second side, and where the one or more of the channel forming ribs extend substantially continuously from a lower location to an upper location assists in providing the torsional and vertical stiffness to the main wall of the seatback. Neither Lohmeyer nor the other cited references, alone or in combination, disclose or suggest such a configuration, particularly where the seatback is also attached to an automotive vehicle as recited in claim 1 and 12 and has the ability to withstand 11,000 Newtons as recited in claim 1.

### **Claim Rejections 35 USC 103**

Claims 3, 4, 7-8, 12, 14-22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lohmeyer (4,856,846) in view of various combinations of one or more of the following references: Knoblock et al. (5,487,591); Nagamitsu et al (US 2002/0060492); Rink et al. (5,029,942); Krassilnikov (US 2003/0197296). These rejections are respectfully traversed with particularity below.

As stated in the MPEP, section 2141.02, "In determining the differences between the prior art and the claims, the question under is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983) ".

As stated in the MPEP 2143.03, "To establish prima facie obviousness...all the claim limitations must be taught or suggested by the prior art." *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Moreover, the MPEP states that, "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Moreover, the Court of Appeals for the Federal Circuit, in the case of In re Lee, 61 USPQ2d 1430 (CAFC 2002), wrote:

("Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to

combine prior art references.");...The need for specificity pervades this authority. See, e.g., In re Kotzab, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) ("particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed"); In re Rouffet, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998) ("even when the level of skill in the art is high, the Board must identify specifically the principle, known to one of ordinary skill, that suggests the claimed combination. In other words, the Board must explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious."); In re Fritch, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992) (the examiner can satisfy the burden of showing obviousness of the combination "only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references").

#### Claim 17

The Office Action rejected claim 17 as being obvious over Lohmeyer in view of Knoblock et al. Applicants traverse this rejection on the ground that Knoblock is improperly combined with Lohmeyer because the skilled artisan would not look to Knoblock et al. as a reference for modifying Lohmeyer et al. In particular, the ribs located in the curved backrest of the chair in the Knoblock reference are designed to reinforce or stiffen the central area of the backrest of the chair for lumbar support (see abstract and Figure 2). Moreover, the ribs that generally correspond to the spine area of a user in the Knoblock reference define a rigid portion that do not readily bend or flex (col. 5, lines 19-24). Instead, Knoblock discloses a pair of hinges (52) that bend or flex along their length to permit mutual rotation of the back and bottom portion of the chair about a synchrotilt axis (7) (col. 5, line 59 to col. 6 lines 2). This synchrotilt axis (7) allows the back portion of the chair, along with the bottom portion of the chair to move in a forward and backward direction about the axis, while the back of the chair remains stiff or rigid through the support of the ribs. In contrast, the Lohmeyer reference includes structures that form hinges on the central area of the backrest to allow the backrest to bend or flex (see Figure 1). As such, the skilled artisan would not modify the backrest of the Lohmeyer reference that is designed to bend or flex by placing the ribs of the backrest in the Knoblock reference that are designed to stiffen or impart rigidity to the back of the chair. Such modification would be contrary to the teachings of Lohmeyer. Specifically, placing the stiffening ribs of the Knoblock reference to the backrest of the

Lohmeyer reference would not allow the backrest of Lohmeyer to bend or flex. Applicants request that the rejection of claim 17 be withdrawn.

#### Claim 25

With respect to claim 25, Applicants submit that the Examiner has not made any specific showing of a prima facie case of obviousness with respect to any of the cited art. As such, the rejection of claim 25 should be withdrawn. Additionally, however, Applicants address the generally asserted case of obviousness as applied to claim 17 since claim 25 is dependent upon claim 17.

Applicants submit that the chairs in the Lohmeyer and Knoblock reference are not related to seatbacks within an automotive vehicle. Rather, both references are directed to chairs designed for use in an office or like setting, which is non-analogous art. In particular, automotive seatbacks can be subject to many different forces (e.g., rapid accelerations and decelerations) during vehicle operation. As such, an individual designing a seat back within a vehicle would not look to office chairs as a source of guidance in defining such a seat back. This is particularly the case since automotive manufacturers and others place structural requirements upon vehicle seat backs that are not present for office chairs.

Moreover, the Office Action has not established a proper motivation for locating the seat back of Lohmeyer as modified by Knoblock within an automotive vehicle. The assertion of the Office Action that side-by-side configurations would be apparent in a classroom type situation does not supply a motivation for locating a seat back within an automotive vehicle.

Applicants also point out that there is no likelihood of success for the chair in the Lohmeyer reference to be placed in a vehicle. In particular, the seat backrest of Lohmeyer is flexible as discussed above. Such a backrest is typically unsuitable for a vehicle since vehicle seatbacks are typically responsible for stabilizing and/or providing support to the torso of an individual during accelerations or decelerations of a vehicle. The backrest of Lohmeyer is unsuitable for providing such stabilization or support.

For the foregoing reasons, Applicants request that the rejection of claim 25 be withdrawn.

#### Krassilnikov Reference

With respect to the Krassilnikov reference, the Office action suggests that Krassilnikov discloses, "a method and apparatus for producing molded "seat backs" (paragraph [124]) with a

gas assisted molding station.” The Office Action goes on to suggest that, “it would have been obvious ... to form the seat back system disclosed by Knoblock with the gas assisted injection molded process taught by Krassilnikov.” Applicants submit that the Examiner had made these similar statements in two previous Office Actions, specifically, actions issued on February 2, 2005 and June 6, 2005. Applicants kindly direct the Examiner to the arguments made in response to both Office Actions and submit that Krassilnikov does not disclose gas assist injection molding for forming channel ribs and is, at best, directed at the formation of foam seat cushions, not seatbacks.

Moreover, Applicants point out that it would likely be improper to present a final rejection of claim 17 and 25 on a ground alternative to that already presented since Applicants have not amended the claim in a manner, which would necessitate such alternative grounds. In particular, the MPEP reads:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee...” MPEP 706.07(a)

Thus, any new grounds of rejection, “that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee...” would be improper.

### **Allowable Subject Matter**

Applicants kindly thank the Examiner for allowing claims 26-28. The Examiner objected to claims 6 and 10 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Applicants kindly defer rewriting claims 6 and 10 in independent form in view of the above remarks and amendments.

### **New Claim**

Applicants have added new dependent claim 29 to address aspects of the present invention. Applicants believe claim 29 is patentable.

By amending the application, the Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants intend to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

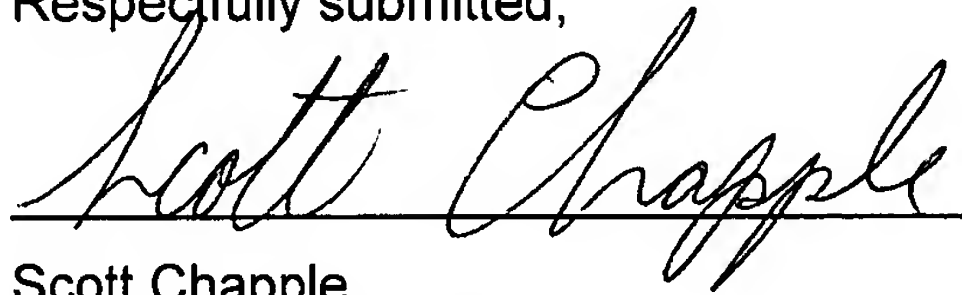
### CONCLUSIONS

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 04-1512 for any fee which may be due.

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Respectfully submitted,



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